United Nations A/HRC/WG.6/29/BWA/1

General Assembly

Distr.: General
6 November 2017

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Twenty-ninth session
15–26 January 2018

National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*

Botswana

* The present document has been reproduced as received. Its content does not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations.

GE.17-19545(E)

Please recycle

Contents

		Page
I.	Process for the drafting of the report	3
	Issues from consultations	3
II.	Implementation of recommendations from the previous cycle	4
	Domestication of treaties	4
	Establishment of a national human rights institution	4
	Human rights promotion	5
	Poverty eradication	5
	Combating HIV/AIDS	6
	Rights of the child	8
	Human rights education	8
	Non-discrimination	8
	Human rights training	10
	Gender equality	11
	Cooperation with treaty bodies	12
	Death penalty	13
	Gender based violence	13
	Right to education	14
	Access to justice	15
	Ratification of treaties	15
	Minimum age of criminality	16
	Women participation in politics and corporate life	16
III.	Issues raised by the civil society organisations not covered in the implementation of recommendations	17
	Servitude and child labour/forced labour and exploitation	17
	Right to free association and assembly	17
	Land management conflict	18
	Safe drinking water and sanitation	19
	Sexual and reproductive health rights	19
IV.	Implementation of voluntary commitments	20
V.	Achievements and good practices – challenges and limitations	20
	Right to housing	20
	Vision 2036	21
	National Development Plan (NDP 11)	21
	Anti-Human Trafficking National Action Plan	22
	Challenges and support from the international community	22

I. Process for the drafting of the report

1. The Ministry of International Affairs and Cooperation (MIAC) collated and coordinated the drafting of the National Report on the 3rd Cycle Review of Botswana under the Universal Periodic Review (UPR) mechanism of the United Nations Human Rights Council. The Ministry also serves as Botswana's Focal Point for the Responsibility to Protect (R2P).

2. As the Chair of the Inter-Ministerial Committee on Treaties, Conventions and Protocols, MIAC solicited the input from Government Ministries and Civil Society Organisations (CSOs). The Drafting Committee comprises representatives from MIAC, Office of the President (OP) and the Attorney General's Chambers (AGC's).

3. The United Nations Development Programme (UNDP), as a strategic partner on governance issues, provided financial support for the compilation of this Report.

4. The Ministry (MIAC), as a coordinating entity, engaged the Civil Society Organisations through consultative meetings as follows:

- 22nd–23rd November 2016 in the North West part of the country;
- 12th–13th December 2016 in the North East part of the country; and
- 30th–31st May 2017 in the Capital city, Gaborone.

5. The Ministry further held Government wide consultations on 25th–26th July 2017. From 22nd–25th August 2017, multi-stakeholder consultations were held which comprised Government ministries and CSOs for their final input. The final circulation of the draft Report was done throughout the month of September 2017 within Government machinery for validation.

6. The Government of Botswana would like to appreciate the critical role played by all the CSOs[1] in the compilation of this National Report.

Issues from consultations

7. The following issues emerged as being of paramount importance to CSOs:

- Combating HIV/AIDS;
- Gender Equality;
- Gender Based Violence;
- Disability Rights;
- Rights of Prisoners;
- Poverty Reduction;
- Child Labour;
- Sexual and Reproductive Health Rights;
- Cultural Rights;
- Children's Rights;
- Corporal Punishment;
- Human Rights Education;

- Human Rights Promotion;
- Mother Tongue Education;
- Safe Drinking Water and Sanitation;
- Land Rights;
- Sexual Orientation and Gender Identity;
- Establishment of a National Human Rights Institution;
- Access to Natural Resources by Local Communities;
- Domestication of Treaties;
- Freedom of Expression;
- Freedom of Religion;
- Nationality.

II. Implementation of recommendations from the previous cycle

8. Botswana's ultimate intention in the implementation process continues to be the enhancement of national capacity for the promotion and protection of human rights for all persons living in Botswana.

9. Botswana accepted 111 and rejected 61 recommendations during the 2nd Cycle Review. In this regard, the Report attempts to highlight progress in the implementation of the accepted recommendations and challenges faced in the promotion and protection of human rights.

Domestication of treaties

10. The Rome Statute of the International Criminal Court Act of 2017 was passed by Parliament on 13th July 2017. The Act provides for the domestication of the Rome Statute of the International Criminal Court, which Botswana ratified on 8 September 2000.

Establishment of a national human rights institution

11. It will be recalled that Cabinet in 2014, approved the amendment of the Ombudsman Act [CAP 02:12], Act No. 5 of 1995 which confers a human rights mandate on the Office of the Ombudsman. This will result in the transformation of the Office of the Ombudsman into a hybrid National Human Rights Institution.

12. In this regard, the Attorney Generals Chamber is currently working on the Ombudsman Amendment Bill which will confer the human rights mandate on the Office of the Ombudsman. It is hoped that the Bill will be tabled during the 2018 July Session of Parliament.

13. Since the last review, Botswana undertook benchmarking missions to the Commission on Human Rights and Administrative Justice (CHRAJ) of Ghana in 2015 and the Commission for Human Rights and Good Governance (CHRAGG) of Tanzania and the Office of the Ombudsman of Namibia in 2016.

14. The Government is studying the recommendations contained in the Report emanating from the benchmarking exercises with a view of adopting the ideal model for the envisaged institution in line with the Paris Principles.

15. The UNDP has assisted Botswana with the recruitment of a Technical Adviser who commenced work during the month of September 2017. The Technical Adviser is expected to assist with the transformation of the Office of the Ombudsman, including the review of the Ombudsman Act.

Human rights promotion

16. The Government has taken a decision to establish a Human Rights Unit under the OP. This Unit will amongst others enhance the promotion of human rights and coordinate the development of a National Human Rights Strategy and National Action Plan.

17. The conferment of the human rights mandate on the Ombudsman will also facilitate the intensification of the promotion and protection of human rights and human rights education.

18. CSOs such as DITSHWANELO-the Botswana Centre for Human Rights, Women Against Rape (WAR) and the Botswana Network on Ethics, Law and AIDS (BONELA) are also proactive in sensitising the public about the human rights agenda.

Poverty eradication

19. The Government continues to implement Poverty Eradication Initiatives whose main objectives are to economically empower the poor by capacitating the beneficiaries to enable them to live a dignified life.

20. The Botswana Millennium Development Goals Status Report (2015) stated that poverty in rural areas has decreased at the rate of 6.5 percent, whilst cities and towns experienced a 3.5 percent decrease since 2002/3.

21. With this in mind, the Government has expressed the intention to eradicate the 19.1 percent abject poverty by December 2017. Furthermore, steps were taken in 2016 to strengthen the coordination and implementation of Poverty Eradication Programmes (PEPs).

22. Poverty eradication is driven through the following Government initiatives:

(a) Livestock Management and Infrastructure Development (LIMID) Programme;

(b) Remote Area Dwellers Programme (RADP);

(c) Youth Empowerment Scheme (YES);

(d) Women's Economic Empowerment Programme; and

(e) Destitute Persons Programme.

23. Furthermore the Government has made provision for several subsidies which include shelter, medical care, occasional fares, funeral expenses (when needed) and exemptions from service levies, taxes, water charges, street licenses, school fees and tools for rehabilitation for the benefit of the vulnerable communities.

24. Additional shelter is provided under the Presidential Housing Appeal for the needy. As of September 2017, 756 houses have been built and donations of P722, 372.01 made.

25. The Government has however experienced challenges of dependence by beneficiaries on social safety net programmes. Challenges for the PEPs include targeting of beneficiaries, implementation procedures and poor coordination, and low graduation of beneficiaries.

26. The Government initiated the Poverty Eradication Programme in 2009 with the aim of "ensuring that every able bodied Motswana should step out of poverty and embark on the road to wealth creation and dignified living" by end of 2017. The programme was introduced to address the twin problems of poverty and unemployment within the country. The Government places a high premium on this programme and to ensure its success, it is coordinated from the Office of the President. Botswana has also maintained strong investment in social protection, health and education resulting in extended services and accessibility.

27. In addition, the Government has introduced a Women's Economic Empowerment Programme to empower women by eradicating poverty and creating employment for women through small enterprises. The programme funds women as groups. The main goal of the Programme is to promote gender equality and equity in line with Botswana's international, regional and national obligations.

28. In order to economically empower the Youth, the Government has introduced the Youth Development Fund which focuses on entrepreneurship development and employment creation. It is open to Batswana citizens aged 18-35 years. Youths are also given special dispensation when applying for land and licenses to operate their businesses.

29. It is also worth noting that Botswana's Vision 2036 and National Development Plan 11 priorities are aligned to goal one of the Sustainable Development Goals. Through the Vision, the Government continues to promote policies, and where necessary develop new ones to stimulate the participation of Batswana in Socio-Economic activities aimed at eradicating poverty in all its forms. During National Development Plan 11, social protection systems would be strengthened through enhancement of policies and strategies aimed at cushioning vulnerable and disadvantaged groups.

Combating HIV/AIDs

30. Botswana continues to take measures to combat the scourge of HIV and AIDS and has identified prevention as the first priority of the national response. The National Strategic Framework (NSF) 2010-2016 was reviewed in 2014 to align the national response priority with the latest developments in HIV and AIDS.

31. The NSF III, National Operation Plan (NOP) and National Monitoring Evaluation Plan (NMEP) are currently being developed. The NSF III is targeting the most affected groups and key populations by location (taking into consideration that key population groups are mobile). Consultations with different stakeholders (CSOs, NGOs, Development Partners, Private Partners and Government Department's) have been done and the final documents are expected to be completed by October 2017.

32. In order to decrease the number of HIV infections, deaths and treatments costs, Botswana launched the Treat All Strategy in June 2016. Program data shows that in March 2017, 487,177 people were tested and 29,725 (6.1 percent) tested positive and that 26,811 have been initiated on Anti-Retroviral Therapy (ART).

33. Botswana has also subscribed to the UNAIDS Global 90-90-90 Fast Track Targets. This translates to: 90 percent of those living with HIV know their HIV status, 90 percent of those who know status are on treatment and 90 percent of those on treatment are virally suppressed.

34. In 2016, 11 994 women living with HIV gave birth and 5,770 infants received virological HIV test within two months of birth translating to early infant diagnosis rate of 49 percent. Out of the infants tested at 2 months, 78 of them were HIV positive (0.7 percent). The same also showed that 152 (1.4 percent) of all children were newly infected with HIV from Mother to Child Transmission (MTCT) among women delivering in 2016. In preventing MTCT of HIV, 94 percent of pregnant women living with HIV received antiretroviral medicine to reduce the risk of MTCT.

35. In Botswana, adolescent girls and young women carry a higher HIV burden. The Botswana AIDS Impact Survey (BAIS) IV indicated that in 2013, 15–19 year old girls had an HIV prevalence of 6.2 percent compared to 3.6 percent that was among boys in the same age group. HIV Prevalence in young women aged 20–24 is three times (14.6 percent) higher compared to the ones of males in the same age group which was at (5 percent).

36. In 2016, the second Botswana Youth Risk Behavioural and Biological Surveillance Survey (BYRBBSS) conducted among 7,205 students aged between 13–19 years, indicated that 75.7 percent of all students knew the relationship between HIV/AIDS, 22.3 percent were sexually experienced, 33 percent had sexual intercourse for the first time before the age of 13 years, and 43.7 percent of them had sexual intercourse with 2 or more people in the 12 months prior to the survey.

37. Looking at the vulnerability of the young population to HIV/AIDS and an increase in the number of teenage pregnancies, sexual abuse, and STIs, Botswana has education policies that guide the delivery of life skills based HIV and sexuality education according to international standards at primary, secondary and tertiary levels.

38. The Government, however, recognises the need to strengthen implementation of these policies through capacity building and access to condoms for young people. The Government in collaboration with development partners continues to implement targeted programmes and services including social media education programmes such as Wise-Up, teen clubs, youth friendly services.

39. The Stigma Index Survey conducted in 2013 revealed that internalised stigma (24 percent) is higher compared to external stigma (13 percent). The BAIS IV survey (2013) also showed that the percentage of women and men expressing negative attitudes towards people living with HIV (PLHIV) dropped from 64.8 percent in 2008 (BAIS III) to 23.8 percent. With prevailing levels of stigma in Botswana there are policies which are consistently implemented. Health care workers are given the competencies required to address stigma and discrimination.

40. The Government, through the Ministry of Health and Wellness (MoHW) partners with Community Based Organisations (CBOs) and CSOs to implement different programmes to reach hard to reach areas. These programmes include HIV testing and treatment, care and support, Safe Male Circumcision (SMC), alcohol and drug abuse and linkage to care for key populations.

41. The MoHW has issued an internal directive ordering the provision of ARV treatment to non-citizen prisoners.

42. In addition, looking at the increasing incidence rate under key population groups, Botswana has recently taken a decision to adopt Pre-Exposure Prophylaxis (PrEP) as prevention mechanisms to selected key populations. An Implementation Strategy is still being developed.

43. Botswana still experiences high levels of gender inequality. HIV disproportionally affects women and girls. The Government therefore continues to address the gender dynamics through targeted interventions on vulnerability to HIV and gender based violence

(GBV) education. Botswana has conducted a gender assessment of the national HIV and AIDS response in 2014 to identify the key gender issues to address in the HIV response.

Rights of the child

44. The National Plan of Action (NPA) for Orphans and Vulnerable Children (OVCs) is mostly funded under the orphan care programme with sectoral partners contributing through their line ministries. For example, the Ministry of Tertiary Education, Research, Science and Technology provides special dispensation (funding) to facilitate access to tertiary education by graduated OVCs, learners with special needs as well as Remote Area Dwellers (RADs).

45. Other activities under the NPA include up scaling of psycho social support interventions in partnership with civil society, up scaling of early childhood development initiatives which is a partnership between three Ministries being the Ministry of Local Government and Rural Development (MLGRD), the Ministry of Basic Education (MoBE), and MoHW.

46. Although funding was not allocated for the implementation of the NPA for All Children, it is being implemented piecemeal by stakeholders albeit with little monitoring. This is being done through initiatives such as the Affirmative Action Programme and the provision of services for children in remote area dwellings by MLGRD.

47. Botswana will conduct the second situational analysis on OVCs during the course of 2017 as the study Protocol has been approved by the Human Research Development Council. In this regard, the process of recruiting a Consultant to conduct data collection has commenced.

48. A National Survey was conducted in 2016 on life experiences and risk of HIV infection amongst children and youth aged 13–24 years. The draft preliminary report is in place and consultations on the findings are ongoing; the outcome of the National Survey on life experiences and risk of HIV infection amongst children and youth aged 13–24 years as well as a situational analysis on OVC will inform the development of the OVC Policy. Both the National Survey and the situational analysis are supported by the United States (US) Government.

Human rights education

49. Human rights education has been streamlined in the school curriculum at the primary and secondary levels through social and cultural studies, moral education, guidance and counselling, development studies, history, geography and environmental science curriculum. At the tertiary level, human rights issues are covered in legal and administrative courses especially to raise awareness.

50. Botswana has undertaken legislative measures to prohibit and eliminate all forms of harmful social, cultural, religious and traditional practices. In particular, Section 62, (subject to Section 61(3), and Section 90 which allow corporal punishment as prescribed by the law) of the Children's Act, 2009, prohibits harmful social, cultural and religious practices which are detrimental to a child's well-being.

Non-discrimination

51. Botswana is cognisant of the fact that there are some segments of the population that are disadvantaged, marginalised and deserve targeted attention. The Government's aim is to

reach out to these disadvantaged and marginalised communities through various schemes and initiatives by putting in place a number of policies and programmes to address concerns of affected communities and to allow the communities to actively participate and benefit in the development of the country's economy.

52. Botswana continues to implement court decisions giving beneficiaries their rights and consultations are ongoing with a view to review and reform national laws to address discrimination of marginalised and disadvantaged groups in the society such as refugees, lesbians, gays, bisexuals, trans-gender and/or intersex (LGBTI) persons, domestic workers, sex workers, asylum seekers and foreign inmates.

53. The Remote Area Development Programme (RADP) and its Affirmative Action Framework for Remote Area Communities (RACs) together with the 10 year implementation plan were introduced in 2014 specifically as one of the flagship programmes which involves regular consultations with RACs and monitors implementation of identified projects for the benefit of the RACs.

54. The Affirmative Action Framework for RACs is guided by the Revised National Policy for Rural Development, the National Strategy on Poverty Reduction, and RADP document of 2009 and is meant to ensure that the RACs benefit from national programmes across sectors, through close monitoring of implementation and fast-tracking of programmes in the remote area communities, for optimum benefit.

55. Specifically, affirmative action is intended to:

(a) promote social inclusion of people living in recognised remote area settlements, both individually and/or as a family in the development of the country;

(b) provide development infrastructure in the recognised remote area settlements for the RACs to be able to participate in the economic and social activities of the country;

(c) enable RACs to build sustainable livelihoods, promote self-reliance and sustainable utilisation of natural resources;

(d) enhance RAC's access to social services, poverty eradication initiatives and other national development programmes;

(e) facilitate community participation of RACs in community development initiatives; and

(f) enhance collaboration with NGOs, CBOs, Faith Based Organisations (FBOs), Development Partners and Private Sector on the development of RACs.

56. Botswana is currently undergoing internal consultations with the view to acceding to the Convention on the Rights of Persons with Disabilities. The Coordinating Office for People with Disabilities has been revising the National Policy on Care of People with Disabilities of 1996. In this regard, the Revised National Policy on Disabilities 2016 has been submitted to Parliament and is expected to be discussed during the Winter Session of Parliament in July 2018.

57. The Government continues to provide social safety nets for people with disabilities and has introduced Disability Cash Transfer to cushion the vulnerability of people with severe and profound disabilities at an amount of P300.00 (approx. USD$ 30.00) plus a food basket on a monthly basis. To date 5,747 people with disabilities earn the disability allowance against the initial target of 5,000.

58. In order to enhance coordination of the implementation of services for persons with disabilities, the Coordinating Office for People with Disabilities has ensured that the following structures are in place:

(a) National Coordination Committee on Disabilities;

(b) National Technical Committee on Disabilities; and

(c) District Disability Coordination Committees.

59. The Coordinating Office for People with Disabilities has also adopted the following Programmes /Projects for People with Disabilities:

(a) poverty eradication;

(b) Affirmative Action on employment of People with Disabilities;

(c) free consultation at all Government health facilities;

(d) provision of prosthetic and orthotic services at subsidised rate of 5 percent of the total price and free fitting for those registered as destitute persons;

(e) provision of annual subventions to organisations providing special education and skills training;

(f) special cut off points for admissions of students with learning disabilities at tertiary education; and

(g) sponsorship of students with learning difficulties in Institutions of Higher Learning.

60. Current short comings in the legal framework prevent persons with disability from enjoying their full civil and political rights. People living with disabilities continue to face challenges such as access to public transport, buildings, health care, service centres including places of worship, which prevents free enjoyment of their Constitutional right to freedom of movement.[2]

61. The Ministry of Presidential Affairs, Governance and Public Administration has revised the National Policy on Care of People with Disabilities of 1996. The Policy awaits approval by Parliament during the Winter Session of Parliament in July 2018.

62. Disability has been viewed as a health issue hence other sectors did not effectively play their primary role in providing services to People with Disabilities. The revised Policy emphasises the importance of implementing services through infusing the determinants of disability into sector mandates for ownership and full implementation.

63. The revision of the Policy is also intended to address other emerging and cross cutting issues such as gender, HIV/AIDS as well as vulnerability of people living with disability.

64. The revised Policy is crafted based on the provisions of the United Nations Convention on the Rights of Persons with Disabilities. This will help us as a country to ensure that the provisions of the Convention are implemented through this policy, hence preparing the ground for ratification.

Human rights training

65. Botswana provides human rights training for the disciplined forces. The Botswana Defence Force (BDF) provides human rights training under the law of armed conflict at the Junior Command and staff levels and in-depth at the Defence Command and Staff College, while the Botswana Prisons Service provides training through human rights modules infused in the initial Prisons Officers' Course Syllabus. The Botswana Police Service (BPS) also provides human rights training in their training curriculum.

66. In addition, Botswana hosts the International Law Enforcement Academy (ILEA) which is situated in the South East of the country. It offers training on human rights and other law enforcement courses. The Academy is supported by the US Government and provides courses for law enforcement officers from Botswana, Southern African Development Community (SADC) region and the African continent.

Gender equality

67. The Constitution of Botswana recognises the equality of women and men before the law. In this regard gender equality is a key principle that is embraced in national policies and planning frameworks. Over the years gender equality has been increasingly accepted as an important development variable by various sectors of the economy.

68. Botswana ratified the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) in 1996. In this regard, there are ongoing efforts by Government to domesticate the CEDAW and develop an operationalisation framework for implementing the CEDAW.

69. The National Vision 2036: Pillar 2 on Human and Social Development recognises gender equality as central to socio-economic, political and cultural development. The National Development Plan 11 also provides for gender mainstreaming and prevention and elimination of Gender Based Violence under the Governance, Safety and Security Thematic Area as aligned to Sustainable Development Goals.

70. In 2015, the Government adopted the National Policy on Gender and Development. In 2016, the National Gender Commission was established to monitor implementation of the Policy. In addition, gender was made prominent in the Ministry of Nationality, Immigration and Gender Affairs (MNIG).

71. The National Policy on Gender has prioritised the following national development areas for gender mainstreaming:

(a) economic development prosperity and poverty reduction to achieve sustainable development;

(b) social protection and social services with prioritised social protection programmes and services including health, adequate sanitation and improved wellbeing;

(c) access to quality education, training and information;

(d) safe housing and consideration of issues of climate change for a sustainable environment;

(e) political power, democratic governance and decision-making;

(f) access to justice, protection of human rights, freedom from violence; and

(g) special and cross-cutting measures targeting vulnerable groups of men, women, girls and boys.

72. To strengthen the Women Economic Empowerment Programme, Botswana committed additional resources in 2017/2018 by increasing the budget from USD2.5 million to USD5.5 million (63.6%). In addition, a Women's Business Directory was developed to facilitate implementation of the Citizen Economic Empowerment and Local Procurement initiatives, and women entrepreneurs' access to available markets.

73. An Advisory Committee on Men's/Boy's and Women's/Girl's issues has also been established to provide technical advice to the NGC (National Gender Commission). There

are also District Development Committees whose mandate is to facilitate implementation of the Policy at District Level.

74. The Government recognizes the importance of traditional leaders (Dikgosi/Chiefs) as custodians of culture and continues to engage them. In November 2015, Dikgosi developed a National Action Plan on Mainstreaming Gender into the Customary Justice System.

75. Regarding engagement of men, in December 2015, Botswana launched the National Champion to drive the He for She campaign particularly in sport. The Men Sector also continues with capacity building amongst men and boys.

76. The representation of women in political leadership remains nominal with only 9 percent of women in Parliament, 17 percent in Cabinet, and 18 percent in Local Government. Women continue to face challenges to fully participate in politics due to gender inequalities and economic constraints, among others. Botswana continues to explore measures and mechanisms to encourage women through capacity building, sensitisation and awareness raising to change societal mindsets and stereotypes regarding women in leadership.

77. Overall Botswana has performed well in promoting women's economic empowerment. Botswana has established the Women's Economic Empowerment Fund that benefits all women including those living in rural areas.

78. Women in Botswana continue to bear the brunt of multiple roles that affect their meaningful participation in productive activities as a result of patriarchy. In this instance, community mobilisation and training of men and women on gender remains a priority for Botswana.

79. Botswana has achieved gender parity in education in terms of both enrolment and retention of boys and girls in primary, secondary and tertiary education. The Government continues to encourage participation of girls in science, technology, engineering and mathematics through targeted scholarships and mentorship programmes.

80. The Government and CSOs conduct outreach programmes through Gender District Offices to disseminate information on gender and women's empowerment to women and men in rural areas. To enhance understanding and support for equality of women and men, the Government has developed public education materials specifically on the concept of gender equality and translated these into the local language.

81. Botswana signed and acceded to the Revised SADC Protocol on Gender and Development on 10th May 2017. The SADC Protocol was revised to align its objectives to various global targets and emerging issues. The Revised SADC Protocol provides for the empowerment of women, elimination of discrimination, and the promotion of gender equality and equity through gender-responsive legislation, policies, programmes and projects.

Cooperation with treaty bodies

82. Botswana continues to cooperate with Treaty bodies whenever requested. The Special Rapporteur for Safe Drinking Water and Sanitation visited Botswana in 2015. Botswana has further acceded to the request for the Special Rapporteur on the Right to Food and the Special Rapporteur for the Right of Minorities to visit Botswana at mutually agreed dates.

83. MIAC has developed a monitoring mechanism on the implementation of accepted recommendations from Special Procedures and Treaty Bodies. MIAC provides a status update on implementation to Cabinet on a monthly basis. This started in July 2017.

Death penalty

84. The Government has not been able to hold public debates in regard to the question on the death penalty since the last review cycle.

Gender based violence

85. The Domestic Violence Act, [Cap 28:05]. Act No. 10 of 2008 abolishes spousal exclusion in rape cases. The Act provides a wide range of remedies for abuse and abusive behaviour including "sexual abuse or threat thereof" in a "domestic relationship". Domestic relationship in terms of Section 2 of the Act includes a relationship where people "are or were married to each other".

86. Furthermore, Botswana is currently piloting a GBV referral system in an effort to provide comprehensive service delivery to survivors of GBV. In addition, the Government acknowledges that currently there is no specific legislation that addresses sexual abuse. However, the on-going process of domesticating the CEDAW is intended to address such issues.

87. The Government continues to collaborate with different stakeholders and partners in efforts to address GBV and raise public awareness on the issue. The health sector engages communities in the prevention and management of GBV through the District Male Action Group community mobilisation strategy. CSOs mobilise community participation in the prevention of GBV through house-to-house campaigns. This contributes to early detection, identification and timely referral of GBV cases.

88. Training of health care providers on the clinical management of GBV including forensic evidence preservation, collection and reporting was enhanced since 2011 following the development of the GBV Health Sector Policy Framework and Health Care Service Providers' Protocols and Service Standards. These Protocols and Service Standards provide for counselling by health care providers and training for hospital based social workers on GBV. The clinicians are also trained in screening skills to identify survivors of GBV.

89. The Government provides financial and technical support to CSOs to offer counselling services to GBV survivors and their families. Social workers received training on gender mainstreaming and GBV using the developed National Gender Mainstreaming Curriculum. The training enhanced general knowledge on gender and the skills to provide psychosocial support to GBV survivors and their families.

90. The Botswana Police Service has regularised inclusion of gender and GBV in their pre-service and in-service trainings. Tools to facilitate capturing of gender disaggregated data at service points have also been developed by the police. The establishment of specialised units within the Police Services dealing specifically with GBV cases is under consideration.

91. Although there is no State owned shelter for women who are GBV survivors, the two (2) shelters run by CSOs receive financial and technical support from the Government and development partners. The Government runs one shelter for vulnerable children and also provides financial support to four (4) others run by CSOs.

92. Public awareness raising activities on violence against women and girls are done through cultural and community dialogues, television and radio discussions, seminars and campaigns including international commemorations. The development of the National Action Plan towards ending GBV is underway, targeting inclusion of all efforts by the different stakeholders and training of the service providers. This plan will facilitate monitoring of interventions to gauge progress and impact.

93. The draft National Strategy (2016-2020) towards ending GBV in Botswana highlights key interventions targeting negative cultural practices that impact on gender equality.

Right to education

94. Every child is guaranteed the right to basic education' through Section 9 of the Children's Act [Cap 28:04], Act No. 8 of 2009 which provides that the rights set out in Part III (Bill of Child's Rights) supplements the rights set out in Chapter II (Bill of Rights) of the Constitution. In this regard, education in Botswana is free for public schooling from primary level to secondary level.

95. Early Childhood Learning has been introduced as an integral part of the formal education system. As a result, the Ministry of Basic Education is currently rolling out Pre-Primary Education and has set up Pre-Primary classes in 471 (62.4 percent) primary schools out of 755. To date 20,361 pupils are enrolled in Pre-Primary Education.

96. Botswana further recognises the achievement of the Education for All (EFA) goals as one of the fundamental steps in the development and provision of education in the country. As a result, measures are in place to ensure increased access to education by all. These include:

(a) implementation of Adult Basic Education Programme and Out of School Children Education Programme;

(b) implementation of Back to School Initiative;

(c) maintaining flexibility in the admission policy to enable children from Remote Area Dweller Settlements (RADS) to start school at an age not later than the official entry age of 6 years. This includes the provision of boarding facilities and transportation to and from boarding schools for children from RADS to increase their access to education;

(d) provision of transport to children with special needs to and from school to ensure increased participation in education;

(e) provision of sponsorship for children with special needs to access programmes that are currently not offered in the country;

(f) provision of psycho-social and basic needs (food basket, school uniforms and stationery) to OVC's including those from poor socio-economic backgrounds;

(g) implementation of a school feeding programme, to cater for all children, including those from poor economic backgrounds, with the aim of increasing access to education and creating a friendly school environment;

(h) implementation of the pregnancy policy to ensure that children who drop out of school due to pregnancy are able to continue with their education following confinement;

(i) mainstreaming gender into educational policies, programmes and projects to ensure provision of gender sensitive education programmes; and

(j) establishment of Centres for children with severe multiple disabilities.

97. The Government of Botswana further offers sponsorships[1] covering tuition and subsistence allowance to students in Local Public Tertiary Institutions and Local Private Tertiary Institutions registered by the Botswana Qualifications Authority (BQA). Sponsorships are also offered to regional and international accredited external institutions which offer programs not available in Botswana.

Access to justice

98. Section 3 of the Constitution accords every person in Botswana the protection of his fundamental rights and freedoms. Section 10 (1) of the Constitution guarantees any person who is charged with a criminal offence to be given a fair hearing within a reasonable time, by an independent and impartial court of law. In protecting the right to a fair trial, the Courts are cognisant of the fact that "Justice must not only be done, it must also be seen to be done."

99. The individual's fundamental rights and freedoms are also promoted and protected through the right to appeal. Not only is the right of appeal exercised through the Court of Appeal but also through the High Court, and the Customary Court of Appeal.

100. Specialised Courts have also been introduced to dispense justice expeditiously, namely the Small Claims Courts, the Traffic Courts, Stock Theft Courts, Corruption Courts and Child Maintenance Courts. To further enhance access to justice, Magistrate courts were opened in Kang and Shakawe in 2016 and in Nata in February 2017. To increase efficiency of the judicial system, the Administration of Justice procured stenograph equipment which will facilitate real-time court reporting.

101. Legal Aid Botswana is now fully operational, and provides legal assistance to indigent persons in Botswana. Legal Aid Botswana is mandated to assist indigent persons to access legal representation. It plans to reach coverage where every citizen will be within a 100 kilometre radius of a Legal Aid Centre. Additional Offices have been opened in Maun, Kanane and Tsabong. Plans are underway to open Offices in Palapye and Gantsi over the 2017/18 Financial Year. For the 2016/17 Financial Year, Legal Aid received 2,752 applications of which 70 percent where granted on the basis of a means test.

102. In order to improve conditions in prisons, the Botswana Prison Service (BPS) continues to maintain and refurbish facilities countrywide. To further decongest prison facilities, 29 prisoners and 366 matalees were released from custody during 2016/17. The BPS is also drafting the Prisoner Rehabilitation Policy which provides for more structured and effective offender rehabilitation programmes. In addition, the development of an Offender Case Management System is underway and will provide for more focused offender treatment and rehabilitation. The Prisons Act [Cap 21:03], Act No. 28 of 1979 is also being amended to conform to the modern correctional environment.

Ratification of treaties

103. Botswana had accepted the request to consider ratification of a number of Human Rights Treaties during its 2nd Cycle Universal Periodic Review. While Botswana may not have ratified any Treaty, she has made significant progress in adopting measures that will confer certain rights as contained in the Treaties.

104. Whilst there is currently no work towards ratification of the International Convention on the Protection of the Rights of Migrant Workers and their Families and the

International Labour Organisation Convention (189), MNIG is working on the development of the Migration Policy which will, amongst others, spell out the rights of migrant workers.

105. The Government, through the MNIG, received funding amounting to 1.3 Million Pula (US$130,000.00) in 2016 from the International Development Fund of the International Organisation for Migration (IOM), for the development of the National Migration Policy.

106. The draft Policy is undergoing final consultations before being tabled in Parliament and aims to provide a strategic vision on migration management, balancing the government's development, security and humanitarian objectives around the four pillars of migration management, migration and development, facilitating migration, regulating migration, and forced migration.

107. The overarching principles underpinning the National Migration Policy are facilitation of movement, upholding social justice, protecting fundamental rights and freedoms, promoting development, building cooperation, mainstreaming gender issues and maintaining security.

108. Furthermore, IOM supported MNIG in developing Standard Operating Procedures (SOPs), specifically the Profiling Form and the National Referral Mechanism (NRM) for screening, identifying, profiling and referring vulnerable migrants for service provision and protection. The draft SOPs will be piloted for six (6) months prior to final adoption for usage.

109. Ratification of the third Optional Protocol to the Convention on the Rights of the Child on a communication procedure has not been considered as it has not been widely disseminated.

Minimum age of criminality

110. Section 82 of the Children's Act [Cap 28: 04], Act No.8 of 2009 provides that "A child under the age of 14 years shall not be presumed to have the capacity to commit a criminal offence unless it can be proved that at the time of committing the offence, the child had the capacity to know that he or she ought not to do so". The Children's Act takes precedence over all other laws that have a bearing on children, hence this section has effectively raised the age of criminal responsibility.

111. There is currently work being done to ensure that the minimum age for criminal responsibility is raised to harmonise all legislation relating to the rights of the children.

Women participation in politics and corporate life

112. The rights of individuals are guaranteed in the legal framework, particularly the Constitution of the Republic of Botswana. In the political set up of the country, such liberties in the Constitution include citizens' franchise and the right to vote and to be elected into a political leadership position.

113. The participation of women in politics and in general public life is still lagging behind and Botswana has not attained the international target of 50 percent women in decision making positions. Out of 1,611 individuals who participate in high political posts and other public life, 429 are women compared to 1,182 of their male counterparts.

114. Special temporary measures to accelerate political participation are not yet in place. However recognising the critical importance of equal inclusion of women and men, the National Policy on Gender and Development prioritises adoption and application of

affirmative measures by sector as necessary to address identified gender gaps in line with their mandates.

115. The participation in the political sphere is gender neutral thus allowing both genders to participate equally in the public affairs. The responsibility to ensure equal participation in open primary elections has been left to different political parties. Generally political parties hold their primary elections to determine candidates to compete in the national elections. Most of the political parties do not practice quota system in determining candidates for national elections.

116. In order to enhance the participation of women in politics and economic development, the UNDP is providing financial support of USD 10,000.00 to the Gender Affairs Department to support the capacity of the National Gender Commission for policy oversight as well as financing NGOs to the tune of USD 50,000.00 to support women candidates to effectively compete in the 2019 General Elections.

III. Issues raised by the civil society organisations not covered in the implementation of recommendations

Servitude and child labour/forced labour and exploitation

117. Whilst not documented, stakeholders raised issues of slavery and child labour especially in farming communities in the country. The Government wishes to state that Section 6 (1) of the Constitution protects all persons living in Botswana from slavery or servitude. Furthermore, Botswana ratified the Protocol on the Suppression and Punishment of Trafficking in Persons especially Women and Children in 2002 and the Optional Protocol to the Convention on the Rights of the Child on Sale of Children and Children Prostitution in 2003.

118. Enactment of the Anti-Human Trafficking Act of 2014 forbids all forms of human trafficking in and through Botswana. The objective of the Act is to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children. The Act provides for the prohibition, prevention and combating of human trafficking' and exploitation' as well as measures to protect and assist victims of trafficking in persons and other matters incidental thereto.

119. In the development of the National Action Plan, multi-stakeholder consultations were done with CSOs, to raise awareness on human trafficking issues. In this instance, we urge the CSOs who might have a wider reach to work together with the Government in addressing the situation and to bring those responsible to account.

Right to free association and assembly

120. Section 13 of the Constitution guarantees the right to assembly and association. This right is enjoyed by individuals, groups and communities alike. As of August 2015, 7,628 organisations were registered in Botswana. 1,952 of them are religious groups, 1,738 are sports groups, 1,608 are burial groups, 80 are women's groups and 15 are political parties.

121. Where persons are of the opinion that their right to enjoy freedom of association is being infringed upon, they can take the matter to the courts. LEGABIBO recently sued the Government for refusing to register it as an Association. The Judgment on this matter was delivered on the 14th of November 2014 wherein the High Court held that *"denying people whose sexual orientation is not a crime in Botswana ... the right to register a society for*

the purposes of lawfully carrying out advocacy for, inter alia, decriminalisation of homosexuality is a clear violation of their constitutional rights to freedom of... association contrary to Section 3 of the Constitution"...."In a democratic society such as ours, freedom of association, assembly and expression are important values duly protected by our Constitution...The enjoyment of such rights can only be limited where such limitation is reasonable and justifiable in a democracy."[7] This matter went on appeal and the High Court decision was upheld.

122. However, in the interest of defence, public safety, public order, public health and public morality, the BDF, BPS and Botswana Prisons Service are not allowed to unionise because they are charged with the responsibility of maintaining law and order.

Land management conflict

123. While stakeholders raised the issue of land management and use as well as conflict between wildlife and people, Botswana is committed to the sustainable management of natural resources. This commitment is supported by various legislations and policies such as:

(a) Community Based Natural Resource Management Policy;

(b) National Policy on National Resources Conservation and Development;

(c) Wildlife Conservation Policy;

(d) National Water Policy;

(e) Forest Policy;

(f) Tourism Policy;

(g) Environmental Impact Assessment Act; and

(h) Mine and Minerals Act.

124. Human-wildlife conflict is a serious concern in the Northern part of the country, and mostly occurs outside protected areas. Increased wildlife population coupled with increase in human population has led to conflict between the two as a result of competition for space/land.

125. In this instance, the Government has in recent years introduced different mechanisms to reduce human-wildlife conflict. One of them is the construction of non-lethal electrified fences around protected areas. The main objective for the erection of electric fences is to address the human-wildlife conflict issue by preventing wild animals encroaching into the communal land and, on the other hand, livestock from encroaching into the National Parks.

126. To ensure sustainable livelihoods for those communities that are disadvantaged by the fencing, the Government has acceded to the request to change some of the plots from traditional usage to tourism so that a fair number of members of the community can benefit from the increased activities in tourism in the affected areas.

127. Botswana has developed policies, strategies and plans that support the conservation and protection of finite natural resources; promote use of renewable energy as alternatives; adopting and mainstreaming global multilateral environmental agreements and protocols in national legislative framework and policies.

Safe drinking water and sanitation

128. The Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, Mr. Léo Heller visited Botswana in 2015 with the view to examine the progress made and challenges faced in ensuring the full realisation of the human right to safe drinking water and sanitation in the country. Botswana welcomed the concluding observations and recommendations contained in the report produced by the Special Rapporteur following his visit and took on board the majority of them.

129. Water quality which is of great concern will be comprehensively addressed through the establishment of a multi-stakeholder Water, Sanitation and Hygiene (WASH) programme. Through the WASH programme, mechanisms will be established for information sharing on water quality with clear roles and responsibility.

130. The 2012 National Water Policy was drafted to ensure equity, efficiency and sustainability. The Policy makes provision for the prioritisation of water for personal and domestic use and stipulates that access to water will be given in the following order of priority:

(a) the basic requirements required for human consumption;

(b) the environment to ensure sustainable foundations for supporting the national interests; and

(c) arable and livestock use, commercial and industrial applications.

131. This prioritisation will inform the review of the Water Act.

132. However, Botswana is faced with challenges of scarcity of water, delayed infrastructure development, and limited funding. In this regard, the country is sourcing funding for infrastructure development from its development partners.

Sexual and reproductive health rights

133. The Sexual and Reproductive Health (SRH) Policy and Guidelines provide that all women of reproductive age are eligible to receive contraceptives without consent of third parties except when requiring sterilization. The notion of reproductive age limits service provision only to those females between 15 and 49 years. There is need therefore to strengthen access to reproductive services for adolescents.

134. Botswana continues to register high incidence of preventable maternal deaths, with a Maternal Mortality Rate (MMR) at 127 per 100,000 live births (2015 per Statistics Brief). The Government aims to improve the quality of care offered to pregnant women during pregnancy, delivery and the post-partum period.

135. Botswana's laws provide for access to safe abortion services on three grounds:

(a) when the pregnancy is a result of rape, defilement or incest;

(b) to save the life of the mother; and

(c) where there is a risk of the child being born with deformities.

136. Unsafe abortion accounted for 24 percent of total maternal deaths as per MoHW Maternal Mortality Audit Report 2012-2014. Access to abortion services is also limited by legal procedures to prove rape or sexual assault, under reporting of rape and sexual assault, the need for consent to abortion for adolescents, inadequate access to correct information on the available services, and negative attitudes by some service providers.

137. Botswana aims to address the unmet need for family planning for women and girls to reduce unwanted pregnancies, through introduction of long term methods (Implants) and increased access to emergency contraception. There is need to strengthen reproductive commodity security to address erratic supply of the Family Planning commodities.

138. Cultural dynamics and socio-economic inequalities continue to hinder/limit women's independence on sexual and reproductive health decisions. The Government continues to implement and promote legislation targeted at protecting women (Domestic Violence Act, Abolition of Marital Power Act, Matrimonial Property Act etc). The Government also continues to conduct education on gender based violence.

IV. Implementation of voluntary commitments

139. Botswana had committed to submitting a Voluntary Interim UPR Report and this was done in 2015.

V. Achievements and good practices – challenges and limitations

Right to housing

140. Botswana adopted a New Land Policy in 2013 whose overall objectives are to:

(a) protect and promote the land rights of all land holders;

(b) ensure that all eligible citizens have the opportunity to access and use the land;

(c) encourage citizens' retention of rights to land;

(d) promote equity in access to land and natural resources;

(e) improve the land management system and ensure that it is predictable, transparent, reliable, consistent and timeous;

(f) establish an up-to-date, efficient and accessible land information centre; and

(g) promote compatible and best use of land, and other land resources.[8]

141. The Policy also introduced affirmative action measures for vulnerable categories of the society, such as remote areas communities, widows, orphans, youth, and people with disabilities. Furthermore, the Government introduced the Land Administration Procedures and Processes Capacity Building Systems (LAPCAS). The intention of this project is to register all real property in the country. In this regard, both the Government and individuals are able to assert citizens' right to property. This also helps the Government to identify people without land.

142. The Government also has the following programmes in place which enhance the right to property ownership:

(a) Self Help Housing Agency (SHHA) scheme is meant for low income earners within the range of P395 - P3, 000 per month across the country. These individuals receive interest free loans to improve their residences or receive complete residential units.

(b) The Poverty Alleviation and Housing Programme (PAHP) was introduced during National Development Plan 8 to cater for income groups that cannot access loans from financial institutions and fall below SHHA income threshold. So far, this programme has produced 148 housing units across the country.

(c) Under the Destitute Housing Programme, the Government has constructed 1732 decent shelters for the poor since 2008/9.

(d) All citizens are given equal opportunities to acquire land. The Government also allows all Botswana citizens to apply, wherever they deem suitable, for land, either for residential or commercial purposes.

Vision 2036

143. The Vision 2036 document, launched in September 2016, provides an opportunity for the country to define its roadmap for the next 20 years. With an all-encompassing theme of "*Achieving Prosperity for All*", the Vision provides an inclusive development path to be achieved through the expansion of the domestic economy while empowering citizens to meaningfully participate in the development of their country.

144. The Vision 2036 pillars are Sustainable Economic Development; Human and Social Development; Sustainable Environment; and Governance, Peace and Security.

145. Achieving the goals and objectives of Vision 2036 will require a refocus of current development model towards an export-oriented, labour-intensive, and private sector driven model. This is necessary so as to further create sustainable job opportunities and diversify our economic base.

National Development Plan (NDP 11)

146. Botswana's adoption of the Eleventh National Development Plan (NDP 11) in December 2016 followed the country's 50th Anniversary of Independence and the launching of the Vision 2036 in September 2016. As a nation, we note with pride the country's transition from one of the poorest countries at independence to an upper middle-income country over the past 50 years. This success can be attributed to the presence of strong democratic institutions including the promotion and protection of human rights, prudent economic management, and the sustainable use of proceeds from diamond production to build productive physical and human capital.

147. NDP 11 was prepared to guide the medium term economic development path for the country, as well as being the first in the series to implement Vision 2036. The theme for NDP 11 is "*Inclusive Growth for the Realisation of Sustainable Employment Creation and Poverty Eradication*".

148. To address some of the developmental challenges, NDP 11 focuses on six broad-based national priorities of:

(a) Developing Diversified Sources of Economic Growth;

(b) Human Capital Development;

(c) Social Development;

(d) Sustainable Use of Natural Resources;

(e) Consolidation of Good Governance and Strengthening of National Security; and

(f) Implementation of an Effective Monitoring and Evaluation System.

Anti-Human Trafficking National Action Plan

149. Following the enactment of the Anti-Human Trafficking Act in 2014, the Government established the Human Trafficking (Prohibition) Committee in 2015 following an aggressive campaign to raise the level of consciousness amongst all stakeholders with a view to develop a comprehensive National Action Plan (NPA) (2017–2020).

150. The Government recognises that human trafficking is multifaceted and therefore requires targeted interventions at all levels and that the continuous monitoring and evaluation will enable the plan to comprehensively respond to any emerging issues.

151. The NAP is indicative of the Nation's transformational agenda of achieving prosperity for all as pronounced through Vision 2036, including National objectives outlined under Governance, Safety and Security chapter of the NDP 11.

Challenges and support from the international community

152. Despite the afore-mentioned successes, the country continues to face challenges such as high unemployment (20 percent in 2013), income inequality and a relatively undiversified economy. The country's heavy reliance on diamond exports coupled with drops in revenue from non-mineral sectors, are expected to adversely impact on the level of the real GDP. In this regard, Botswana continues to carry out the requisite reforms which include introducing measures to strengthen the economy and even more importantly, diversifying it away from its dependency on diamonds.

153. Without accelerated economic growth, it will remain difficult for Botswana to create jobs, especially those that contribute to increased productivity, poverty reduction and the attainment of equitable social development. The Government's policy and planning frameworks clearly consider economic diversification as a crucial step towards promoting employment and economic development.

154. The country's outstanding achievements and gains in socio-economic development have, however, over the last three decades, suffered a major setback due to the devastating human and social impact of HIV and AIDS pandemic. The direct costs of HIV and AIDS prevention, treatment, care and support are accompanied by an indirect loss to the economy especially in terms of professional, skilled and experienced human resources, thereby significantly reducing productivity and the rate of economic growth. These challenges are exacerbated by the adverse effects of "Middle Income Trap", hence our appeal for continued support from the development partners and the international community as a whole.

Notes

[1] Ditshwanelo -The Botswana Centre for Human Rights, Botswana Watch, Thusano Lefatsheng, The Lesbians, Gays and Bisexuals of Botswana (LEGABIBO), Botswana Society for the Deaf, Botswana Network of People Living with AIDS (BONEPWA), LEB, Botswana Educational Research Association (BERA), Society of Road Safety Ambassadors, Skills Share International Botswana (SKIB), Motse Wa Kgalalelo Youth Project, Okavango Community Trust, Khwai Village, Tane Ko Teemahane Women's Foundation, Green Ginger Association, Thuso Rehabilitation Centre, Khawi Development Trust, Tsodilo Trust, Bana Ba Letsatsi Trust, BRAP Group, Save Wildlife Conservation, Ngamiland Council of Non Governmental Organisation (NCONGO), Non Governmental Organisation (NGO) Council, Khwedom, Food Bank Botswana Trust, Kagisano Society Women Shelter, Marang Child Care Network Trust, Kitso ke Maatla, Emang Basadi, Botswana Substance Abuse Support Network (BOSASNET), Rainbow Identity, Botswana Christian

Aids Intervention Program (BOCAIP), Botswana Council of Non-Governmental Organisations (BOCONGO), Mbanyeru Youth Association Botswana, Light & Courage Centre, Mazibakufa Development Trust, Alliance for a Healthier Generation, Nlapkhane Community Environment Trust, Bhokamano Conservation Trust, Environmental Heritage Foundation, Methodist Church, Botswana Guardian, and the Mmegi Newspaper.

2 Section 14 of the Constitution of Botswana

3 See Section 18 of the Children's Act

4 These are in the form of loans, full or partial grants depending on the course of study.

5 Human trafficking is widely defined in Section 9 of the Act as the recruitment, transport, transfer, harbouring or reception of another person "by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation of that person." It also includes the removal of an organ from a person's body, forcing a woman to fall pregnant and take the child away, subjecting a person to slavery or forced labour, instigating a person to commit an act of prostitution, instigating a person to take part in an obscene publication or obscene display or committing a sexual offence against a person. [Section 9(2)]

6 According to Section 2 of the Act, the term "exploitation" includes but is not limited to "keeping a person in a state of slavery, subjecting a person to practices similar to slavery, involuntary servitude, forcible or fraudulent use of any human being for removal of organs or body parts, forcible or fraudulent use of any human being to take part in armed conflict, force labour, child labour, sexual exploitation, child marriage, or force marriage."

7 See case Thuto Rammoge and others vs The Attorney General of Botswana, MAHGB-00175-13 of November 14, 2014. Paragraph 57.

8 See **Botswana Land Policy**, 2013, Ministry of Lands and Housing, paragraph 49.

United Nations A/HRC/WG.6/29/BWA/2

General Assembly

Distr.: General
2 November 2017

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Twenty-ninth session
15-26 January 2018

Compilation on Botswana

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies[1][2]

2. The Special Rapporteur in the field of cultural rights and the Special Rapporteur on the human right to safe drinking water and sanitation encouraged Botswana to ratify the International Covenant on Economic, Social and Cultural Rights.[3]

3. The United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged Botswana to ratify its Convention against Discrimination in Education.[4]

4. In terms of reporting, UNESCO encouraged Botswana to submit State reports for the periodic consultations on education-related standard-setting instruments.[5]

5. The Special Rapporteur on cultural rights encouraged Botswana to enhance its cooperation with the United Nations human rights mechanisms. She noted that many of the country's reports to treaty bodies were seriously overdue and that Botswana had not extended a standing invitation to the special procedures.[6]

6. In a letter to the United Nations in 2011, Botswana reaffirmed its strong support for the work of the United Nations human rights system[7] and, inter alia, pledged to cooperate fully with treaty bodies, including through meeting its reporting obligations.[8] Botswana also expressed its full support for the special procedures mechanism.[9]

III. National human rights framework[6]

7. UNESCO stated that the Constitution of Botswana did not guarantee the right to education.[7] It recommended that Botswana enshrine the right to education in its Constitution.[8]

8. The Committee on the Elimination of Discrimination against Women recommended that Botswana provide, in its next periodic report, additional information on actions taken to repeal section 15 (4) of the Constitution, in order to end violations of women's rights with respect to adoption, marriage, divorce, burial and devolution of property on death and other matters of personal law.[9]

9. The Special Rapporteur on cultural rights welcomed the ongoing efforts towards the establishment of a national human rights institution and stated that all efforts should be made to ensure compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) as well as ownership of the institution by the people through, in particular, wide consultations as well as the effective and informed participation of non-governmental organizations in the discussions on the final design and establishment of the institution.[10]

10. In 2011, Botswana expressed its commitment to the creation of a national human rights institution in line with the Paris Principles.[11]

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination[12]

11. The Special Rapporteur on cultural rights called for the review of section 15 of the Constitution of Botswana, 1996 (as amended up to 2006), in particular, sub-sections 4 (c) and (d) and 9 (a), in order to eliminate exceptions to the principle of non-discrimination that were not in compliance with international human rights treaties.[13]

2. Development, the environment and business and human rights

12. The Special Rapporteur on cultural rights stated that Botswana must be commended for its efforts and achievements in the areas of development and poverty reduction. She stated that important policies geared towards nation-building had been implemented and efforts to recognize, value and take benefit from the rich cultural diversity of the country had been developed.[14]

13. While commending Botswana for its approach to conservation and development that recognized the rights of local people to manage and benefit from the management and use of natural resources through community-based natural resource management, the Special Rapporteur encouraged the Government to increase its efforts in that regard, empower the communities concerned and build their capacity, in particular in the tourism industry.[15]

14. While understanding the concerns expressed by the Government regarding the need to protect its rich biodiversity and its policy to ensure the economic transition of local communities through their participation in tourism activities, the Special Rapporteur recommended that the Government fully abide by its obligation to respect and protect cultural rights, particularly the strong cultural dimension of hunting and harvesting, through thorough consultations and discussions with the communities concerned.[16]

B. Civil and political rights

1. Administration of justice, including impunity and the rule of law[13]

15. The Special Rapporteur on cultural rights stated that Botswana strived to maintain a delicate balance between customary law and common law.[14] Botswana had acknowledged that the challenge of reviewing laws and practices that were inconsistent with the full enjoyment of constitutional rights and international standards, and that the dual system comprising customary law and common law must be regularly reviewed to remove contradictions and inconsistencies.[15] All courts could administer customary law, including customary courts developed in connection with the *kgotla* system (traditional community meetings) and operating under the authority of chiefs or headmen. Customary courts dealt with criminal and civil cases of limited extent, with possible appeals to the Customary Court of Appeal and then the High Court. Under the Customary Law Act, 1969, tribal customary law was valid to the extent that it was not incompatible with the provisions of any written law or contrary to morality, humanity or natural justice.[16]

16. The Special Rapporteur was concerned that the adjudication system in which judgment was handed down by a *kgosi* (traditional chief) led to the imposition of the customary law of the dominant tribe in civil matters within a given tribal territory. While welcoming the fact that adjudication by customary courts in criminal matters were to be based on the Penal Code, the Special Rapporteur was concerned that traditional chiefs or the tribal administration were not required to have any particular training in that respect.[17]

2. Fundamental freedoms and the right to participate in public and political life[18]

17. UNESCO stated that defamation was a criminal offence pursuant to sections 192 to 199 of the Penal Code. It recommended that Botswana decriminalize defamation and make provision for such conduct in a civil code.[19]

18. The Special Rapporteur on cultural rights stated that, while constitutional and legislative reforms had provided for greater participation by historically underrepresented groups in the *Ntlo ya Dikgosi* (House of Chiefs) that served as an advisory body to Parliament, the Government should continue working to ensure that those groups were in fact effectively represented in that institution, with due regard to the traditional leadership structures and the practices of all the tribes in Botswana.[20]

C. Economic, social and cultural rights

1. Right to an adequate standard of living[21]

19. The Special Rapporteur on water and sanitation recommended that the Government adopt the Botswana National Water Policy to comprehensively approach water and sanitation issues, guided by the principles and normative content of the human rights to water and sanitation. The policy should include a long-term strategy to manage water resources in a sustainable manner, taking into account a predicted increase in water stress. The Special Rapporteur recommended that the Government, inter alia, adopt measures to improve the treatment of water; introduce a systematic monitoring system for water quality; adopt measures to protect the poor and people living in vulnerable situations from water rationing; and review the tariff system in order to balance sustainability and affordability of water and sanitation services, particularly for the poor.[22]

2. Right to health[23]

20. The Special Rapporteur on water and sanitation recommended that the Government take into consideration that children, pregnant women and people with chronic diseases were particularly vulnerable to illnesses, such as diarrhoea, when there was insufficient water.[24]

3. Right to education[37]

21. UNESCO stated that, despite the education pillar of "Vision 2016", the quality of education was on the decline and the education system remained monolingual. Botswana had since created "Vision 2036", which included education and skills development through the adoption of a national transformation strategy.[38]

22. UNESCO stated that the Education and Training Sector Strategic Plan had been adopted in 2015. The plan contained goals to, inter alia, increase access, equity and quality in early childhood care and education, increase access to quality basic primary education and improve gender equality, especially in tertiary education.[39]

23. UNESCO noted that Botswana was a State party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972) and the Convention for the Safeguarding of the Intangible Cultural Heritage (2003), and encouraged it to fully implement the relevant provisions that promoted access to and participation in cultural heritage. Botswana should give due consideration to the participation of communities, practitioners, cultural actors and non-governmental organizations from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young people and persons with disabilities) and ensure that equal opportunities were given to women and girls to address gender disparities.[40]

24. The Special Rapporteur on cultural rights stated that cultural rights, including linguistic rights, should be respected and protected within the education system. Provisions should be made to enable minority groups to learn and to be taught in their mother tongue as well as in the official State languages.[41] The Special Rapporteur called on Botswana to adopt measures in the field of education aimed at encouraging the knowledge of the history, culture and traditions of all the tribes and communities in the country, and to enhance the capacity of teachers to develop extracurricular activities in the language of and according to the culture of minority groups.[42]

D. Rights of specific persons or groups

1. Women[43]

25. The Special Rapporteur on water and sanitation stated that Botswana should increase the participation of women in decision-making on water and sanitation-related matters and take special measures to reduce the disproportionate burden on women caused by the lack of access to water and sanitation.[44]

2. Children[45]

26. The Special Rapporteur on water and sanitation stated that Botswana should improve access to water, sanitation and hygiene in schools and, in particular, install menstrual hygiene management systems in all schools, as well as in health centres.[46]

27. The Office of the United Nations High Commissioner for Refugees (UNHCR) stated that a significant number of rejected asylum seekers detained at the facility referred to as CH (centre for illegal immigrants) were children. It recommended that Botswana, inter alia, release the children and ensure durable solutions that were in their best interests.[47]

3. Minorities and indigenous peoples[48]

28. The Special Rapporteur on cultural rights stated that many people felt excluded from the main society and lacked recognition of their cultural heritage and distinct ways of life. She expressed concern about the strong imbalance in recognition and power between Tswana and non-Tswana communities, a system inherited from the colonial past that greatly influenced the realization of cultural rights in the country. She stated that Botswana needed to engage in a new era of nation-building that fully reflected, built upon and celebrated its rich cultural diversity. From a cultural rights-based perspective, that implied equal recognition and acknowledgement of the country's various communities and the

diverse ways in which people related to their environment and natural resources, as well as their land, and their varied approaches to development.[47]

29. While noting that the *kgotla* system was an important institution for consultation at the local level and had enabled communities to remain the guardians of their cultural heritage, the Special Rapporteur recommended that Botswana enhance the capacity of the *kgotla* system to take on board marginalized groups and people, such as women and minorities, and recognize and respect the cultural patterns and traditional leadership structures of non-Tswana communities.[48] She also recommended that Botswana ensure the implementation of the Bogosi Act, 2008, in a transparent manner and that communities applying for recognition as tribes be kept duly informed of the procedure followed and the steps taken by the Ministry.[49]

30. The Special Rapporteur noted that the Central Kalahari Game Reserve had been established in 1961 to protect the wildlife and to serve as a place of sanctuary for the San people, where they could live their traditional hunter-gatherer way of life. Following the 1997 decision by the Government to relocate the communities outside the reserve, some residents who had been forcefully relocated instituted legal proceedings to enforce their right to live on their land. In 2006, the High Court ruled that their eviction had been unlawful and unconstitutional.[50] The Special Rapporteur recommended that the Government engage with the San people, in particular on community-based natural resource management and tourism in the reserve.[51]

4. Migrants, refugees, asylum seekers and internally displaced persons[52]

31. Referring to recommendations that had been supported by Botswana,[53] UNHCR stated that the reservation by Botswana to article 26 of the 1951 Convention relating to the Status of Refugees concerning freedom of movement, which was enforced through a policy that required all asylum seekers and refugees to reside in Dukwi refugee camp, remained a significant gap in the country's legal framework. Reservations were also made to article 17 of the 1951 Convention thus denying refugees and asylum seekers the right to work. UNHCR recommended that Botswana withdraw the reservations, amend the encampment policy and provide work permits to and decent work opportunities for asylum seekers and refugees.[54]

32. UNHCR stated that, despite its reservation to article 34 of the 1951 Convention, in the past, Botswana had had significant success with the naturalization of refugees. However, recently, refugees had faced difficulties in applying for naturalization. UNHCR recommended that Botswana withdraw the reservation and allow refugees, particularly those with ties to Botswana, to be naturalized.[55]

33. UNHCR stated that the members of the Refugee Advisory Committee that determined refugee status often did not have expertise in refugee law. In addition, the Refugee Act did not establish an appeal mechanism independent of the authority that made the initial decision. The Minister of Justice, Defence and Security had the discretion to review first instance decisions. UNHCR recommended that Botswana, inter alia, provide legal and procedural safeguards for asylum seekers, including during the refugee status determination process.[56]

34. UNHCR stated that Botswana applied a stringent policy regarding the concept of "first country of asylum" and "safe third country" that effected all asylum seekers who transited through another country. UNHCR recommended that Botswana refrain from declaring asylum applications inadmissible on the sole basis of "first country of asylum" or "safe third country".[57]

5. Stateless persons[58]

35. UNHCR stated that, while Botswana was a State party to many universal and regional conventions that recognized the right to nationality, the consequential commitment was not fully reflected in domestic law. There was no legal guarantee for children born in Botswana and who would otherwise be stateless to acquire Botswana nationality, nor was there any law protecting foundlings. UNHCR recommended that Botswana accede to the 1961 Convention on the Reduction of Statelessness and amend section 4 of the Citizenship

Act, 1998, and the Citizenship Regulations, 2004, to grant nationality at birth to any child born in Botswana who would otherwise be stateless and to foundlings."

Notes

[1] Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Botswana are available at www.ohchr.org/EN/Countries/AfricaRegion/Pages/BWIndex.aspx.
[2] For relevant recommendations, see A/HRC/23/7 and Corr.1, paras. 115.44-115.45, 115.88, 116.1-116.12, 116.14-116.24, 116.31-116.34 and 117.1.
[3] See A/HRC/31/59/Add.1, para. 80, and A/HRC/33/49/Add.6, para. 6.
[4] See UNESCO submission for the universal periodic review of Botswana, para. 11, and p. 5, recommendation 1.
[5] Ibid., para. 3, and p. 5, recommendation 6.
[6] See A/HRC/31/59/Add.1, para. 4.
[7] See A/65/732, annex, para. 5.
[8] Ibid., paras. 15 and 20.
[9] Ibid., para. 14.
[10] For relevant recommendations, see A/HRC/23/7 and Corr.1, paras. 115.1-115.22, 115.38, 115.40, 115.42-115.43, 115.52, 115.54, 115.92, 116.13 and 117.27.
[11] See UNESCO submission, para. 1.
[12] Ibid., p. 5, recommendation 2.
[13] See letter dated 19 March 2013 from the Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women addressed to the Permanent Representative of Botswana to the United Nations Office and other international organizations in Geneva. Available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BWA/INT_CEDAW_FUL_BWA_13420_E.pdf.
[14] See A/HRC/31/59/Add.1, para. 82.
[15] See A/65/732, annex, para. 17.
[16] For relevant recommendations, see A/HRC/23/7 and Corr.1, paras. 115.41, 116.35 and 117.2-117.3.
[17] See A/HRC/31/59/Add.1, para. 81.
[18] Ibid., para. 75.
[19] Ibid., para. 87.
[20] Ibid., para. 88.
[21] For relevant recommendations, see A/HRC/23/7 and Corr.1, paras. 115.75-115.76, 115.93, 116.25-116.29 and 117.39.
[22] See A/HRC/31/59/Add.1, para. 17.
[23] Ibid., para. 19.
[24] Ibid., para. 21.
[25] Ibid., para. 24.
[26] For the relevant recommendation, see A/HRC/23/7 and Corr.1, para. 115.78.
[27] See UNESCO submission, paras. 5 and 15.
[28] See A/HRC/31/59/Add.1, paras. 26 and 83.
[29] For relevant recommendations, see A/HRC/23/7 and Corr.1, paras. 115.23 and 115.25-115.32.
[30] A/HRC/33/49/Add.6, pp. 5-9, "Recommendations".
[31] For relevant recommendations, see A/HRC/23/7 and Corr.1, paras. 115.24, 115.33, 115.35, 115.80-115.82 and 116.39.
[32] See A/HRC/33/49/Add.6, para. 13.
[33] For relevant recommendations, see A/HRC/23/7 and Corr.1, paras. 115.36-115.37 and 115.84-115.87.
[34] See UNESCO submission, paras. 13-14.
[35] Ibid., para. 14.
[36] Ibid., para. 17.
[37] See A/HRC/31/59/Add.1, para. 85.
[38] Ibid., para. 86.
[39] For relevant recommendations, see A/HRC/23/7 and Corr.1, paras. 115.46-115.51, 115.53, 115.55-115.58, 115.61-115.73 and 117.26.
[40] See A/HRC/33/49/Add.6, p. 8, para. (o).
[41] For relevant recommendations, see A/HRC/23/7 and Corr.1, paras. 115.34, 115.39, 115.79, 116.30 and 117.22-117.25.
[42] See A/HRC/33/49/Add.6, p. 8, para. (p).
[43] Office of the United Nations High Commissioner for Refugees (UNHCR) submission for the universal periodic review of Botswana, p. 3.

[44] For relevant recommendations, see A/HRC/23/7 and Corr.1, paras. 115.89-115.90, 116.40 and 117.33-117.38.
[45] See A/HRC/31/59/Add.1, para. 76.
[46] Ibid., paras. 22 and 84.
[47] Ibid., para. 84.
[48] Ibid., paras. 66-68.
[49] Ibid., para. 92.
[50] For relevant recommendations, see A/HRC/23/7 and Corr.1, paras. 115.91 and 116.41-116.43.
[51] See A/HRC/23/7 and Corr.1, para. 116.41 (Uganda) and para. 116.42 (Ecuador).
[52] UNHCR submission, pp. 3-4.
[53] Ibid., p. 5.
[54] Ibid., pp. 1-2.
[55] Ibid., p. 2.
[56] For the relevant recommendation, see A/HRC/23/7 and Corr.1, para. 115.77.
[57] UNHCR submission, p. 5.

United Nations A/HRC/WG.6/29/BWA/3

General Assembly

Distr.: General
31 October 2017

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Twenty-ninth session
15-26 January 2018

Summary of Stakeholders' submissions on Botswana*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 9 stakeholders' submissions[1] to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders

A. Scope of international obligations and cooperation with international human rights mechanisms and bodies[2]

2. JS1 recalled that at the universal periodic review of the Republic of Botswana (State under review) which had been held on 23 January 2013 (2013 review),[3] the State under review had supported a recommendation to ratify the Convention on the Prevention and Punishment of the Crime of Genocide and recommended that the State under review ratify this Convention as soon as possible.[4] JS1 also recommended the ratification of the Third Additional Protocol to the 1949 Geneva Conventions, the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, the Convention on Conventional Weapons and its protocols and the Arms Trade Treaty.[5]

3. JS1 encouraged the State under review to ratify the Second Optional Protocol to International Covenant on Civil and Political Rights, aiming at the abolition of the death

* The present document was not edited before being sent to United Nations translation services.

GE.17-19194(E)
1719194

Please recycle

penalty and the International Convention for the Protection of All Persons from Enforced Disappearance.[6]

4. JS4 stated that the State under review was not a party to the 1961 Convention on the Reduction of Statelessness and recommended accession to this Convention.[7]

5. ODVV called for the ratification of the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the ILO Convention No. 169.[8]

6. JS2 noted that the State under review had not ratified the International Covenant on Economic, Social and Cultural Rights, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[9]

7. While noting that the State under review had ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2003, JS3 stated that the State under review was yet to submit its initial report to the Committee on the Rights of the Child.[10]

8. HRW stated that while progress had been made in implementing supported recommendations from the 2013 review, the State under review should take additional steps to ensure the protection and promotion of human rights in the country in line with supported recommendations from the 2013 review.[11]

B. National human rights framework[12]

9. JS3 stated that the State under review maintains a "dualist" approach to international law and treaties and as a result treaties must be incorporated through domestic legislation in order to be enforceable.[13] HRW noted that the State under review was yet to incorporate into domestic law those international human rights conventions it had ratified, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the African Charter on Human and Peoples Rights, making them directly applicable to the courts and administrative authorities.[14]

10. JS2 also noted that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights and the Southern African Development Community Protocol on Gender and Development had not been incorporated into the national legal framework.[15]

11. While noting that the State under review had ratified the Convention on the Rights of the Child, JS2 stated that some of the provisions in the Children's Act, 2009 were not in line with the Convention.[16] It recommended that the State under review revise the Act to bring all of its provisions in compliance with the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.[17]

12. HRW called on the State under review to complete the process of aligning its national legislation with the Rome Statue of the International Criminal Court, including by incorporating provisions to cooperate promptly and fully with the Court.[18]

13. HRW stated that the State under review was yet to establish a national human rights institution in line with the Principles relating to the Status of National Institutions (Paris Principles),[19] despite supporting relevant recommendations at the 2013 review.[20]

14. JS2 stated that following the 2013 review, the State under review broadened the mandate of the Office of the Ombudsman, to include human rights and the process of amending the Ombudsman Act 5 of 1995 to reflect the broadened mandate was ongoing.[21] The Office of the Ombudsman was currently located under the Office of the President, which called into question its independence. JS2 recommended that the State under review ensure that the Office of the Ombudsman will be able to operate with independence and in adherence with the Paris Principles. It also recommended that the required amendments to the Ombudsman Act 5 of 1995 were swiftly adopted.[22]

15. JS2 stated that the State under review had been found to be exemplary for good governance in Africa and in that regard several institutions had been established to ensure transparency and good governance. However, there was a need to ensure that such governance was inclusive and enabled the participation of all citizens.[23] It recommended that the State under review create a legal framework for the transparent management of public resources with adequate monitoring mechanisms, and include civil society in the formation and implementation of policies and legislation. JS2 also recommended adopting legislation on access to information.[24]

16. JS2 stated that the Freedom of Information Bill which was presented to Parliament in 2010 by the then leader of the opposition had not been passed into law. The Declaration of Assets and Liabilities Bill had also not been passed into law.[25]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross-Cutting Issues

Equality and non-discrimination[26]

17. JS2 recommended that the State under review enact anti-discrimination legislation to protect and promote the rights of sexual minorities and to promote awareness of sexual orientation and genders identity.[27]

18. JS2 stated that there were no mechanisms in place to ensure that transgender people were able to change their documentation once they have transitioned, and recommended creating such mechanisms.[28] There was also no training for service providers on how to assist people who intended to transition, who were in the process of transitioning or who had already transitioned.[29]

Development, the environment and business and human rights

19. JS2 recommended that the State under review produce and made public its implementation plan to reduce carbon emissions by 15 percent by 2030 in accordance with its nationally determined contribution for climate change, and develop public-awareness materials on climate change together with civil society. It also recommended that the State under review undertake consultations with affected communities before signing, ratifying or incorporating in the domestic legal framework any regional or international treaties relating to the environment and wildlife; and that the State under review make compulsory the conducting of social impact assessments and consultations with affected communities before the promulgation of any laws related to the environment to ensure that no community is arbitrarily deprived of its natural resources and land.[30]

2. Civil and political rights

Right to life, liberty and security of person[31]

20. While noting that the most recent execution was in 2016, JS2 stated that the State under review was the only country in the Southern African Development Community which retained the death penalty in law and in practice.[32] It recommended a moratorium on executions and called for public consultations on the desirability and long-term effectiveness of the use of the death penalty as a deterrent.[33]

21. JS1 encouraged the State under review to abolish the death penalty.[34] It stated that the Constitution permitted the taking of life in cases of war, arrest, escape, riot, insurrection, mutiny, to defend life or property and to prevent the commission of a crime and encouraged the State under review to revise the Constitution to enhance the promotion and protection of the right to life.[35]

Administration of justice, including impunity and the rule of law[36]

22. JS2 noted that the State under review had a legal aid programme that aimed to promote access to justice.[37] It recommended that the State under review raise the awareness of the programme, increase the number of offices to ensure access to legal aid through-out the country and expand the mandate of the legal aid programme to include criminal matters.[38]

23. HRW called on the State under review to investigate and prosecute genocide, crimes against humanity and war crimes fairly and effectively in its national courts.[39]

Fundamental freedoms and the right to participate in public and political life[40]

24. COMEF stated that the Communications Regulatory Authority Act, 2012 did not recognise community broadcasting. It recalled that during a Parliamentary debate in 2013, members of the ruling party expressed the position that community radio would divide the nation. COMEF recommended that the State under review amend the Communications Regulatory Authority Act, 2012 at the 12th parliamentary session in 2018, to explicitly allow for the licencing of community broadcasters. It also recommended the convening of a national symposium on community radio.[41]

25. JS2 stated that there had been an emergence of religious churches which had no tolerance for those rights associated with sexual orientation and gender identity. Those churches promoted discrimination and sometimes the persecution of sexual minorities.[42] JS2 recommended that the State under review undertake a review of the legislation for the registration of societies and churches to ensure that registered organisations strictly adhere to human rights standards, including those of non-discrimination.[43]

26. While noting that entry and service in the defence force was voluntary, JS1 recommended that the State under review make a clear statement in law of the right to have or to develop a conscientious objection to military service, so as to guarantee the protection of that right to all, including those persons who have already enlisted in the defence force.[44]

27. JS2 stated that the space for the participation of civil society in democratic governance was shrinking due to a lack of resources for civil society organisations and a lack of constructive collaboration with the Government, amongst others.[45]

Prohibition of all forms of slavery

28. Focusing its submission on the sexual exploitation of children, JS3 stated that although the Penal Code and Criminal Procedure and Evidence Act prohibited sexual exploitation there was no definition of child prostitution in line with article 2 of Optional

Protocol to Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.[46] JS3 recommended integrating the definition of child prostitution from the Optional Protocol into the Penal Code and Criminal Procedure and Evidence Act.[47]

29. JS3 stated that the State under review was a source, transit and destination country for human trafficking, which appeared to be the most significant manifestation of the sexual exploitation of children.[48] It recommended that the State under review commission a comprehensive study on the sexual exploitation of children to determine the extent of the exploitation, and to identify target areas, vulnerable groups, and areas for improvement.[49] JS3 also recommended prioritizing an awareness raising campaign to educate families on the criminality and dangers of sexual abuse and exploitation.[50]

30. While noting the Anti-Human Trafficking Act, 2014, JS2 stated that in order to ensure that trafficking in children was effectively addressed there was a need to provide appropriate training to service providers and stakeholders working with children who were victims of human trafficking.[51]

Right to privacy and right to family[52]

31. JS2 stated that same-sex relations remained criminalized.[53] While recalling that at the 2013 review, the State under review had noted all the recommendations to decriminalize same-sex relations, HRW stated that the Authorities relied on article 64 of the Penal Code which criminalizes "carnal knowledge against the order of nature" to criminalize same-sex sexual activities.[54] JS2 recommended that the State under review decriminalize same-sex relations and legalize same-sex marriage.[55]

3. Economic, social and cultural rights

Right to social security[56]

32. JS2 called on the State under review to increase the amount of the old age pension in light of the increasing cost of living.[57]

Right to an adequate standard of living[58]

33. JS2 stated that the various programmes, including a national strategy, intended to alleviate poverty did not provide sustainable solutions to poverty alleviation.[59] JS2 made recommendations including reviewing, in consultation with civil society and the private sector, the the current National Poverty Strategy with a view to amending it to include long-term solutions to poverty alleviation.[60]

Right to health[61]

34. ADF stated that the State under review must focus on helping women safely get through pregnancy and childbirth and resources must be directed towards improving conditions for pregnant women, women undergoing childbirth, and postpartum women.[62]

35. ADF stated that the high number of maternal deaths was a concern and resulted from conditions which included a lack of drugs and poor infrastructure in health care facilities such as no electricity or running water, and inaccessibility of hospitals.[63] It called for improving health care infrastructure, access to emergency obstetric care, midwife training and resources devoted to maternal health.[64]

36. While noting the development of a national strategy to combat HIV and AIDS, JS2 stated that the implementation of the strategy must be inclusive and cover all key populations including men who have sex with other men, the LGBTIQ community and sex

workers. Also, service providers should be trained to provide the required assistance to all members of the key populations.[65]

Right to education[66]

37. HRW stated that in June 2017, the State under review signed the Safe Schools Declaration, an international commitment that provides support for the protection and continuation of education during wartime.[67]

38. JS2 stated that there was no national anti-bullying policy for schools and many schools did not have their own anti-bullying policies. Corporal punishment was administered in schools and despite official guidelines for administering corporal punishment, children have been seriously injured.[68]

39. JS2 stated that children were taught in Setswana and in English, which made learning difficult for those whose mother-tongue was neither of the two languages.[69]

4. Rights of specific persons or groups

Women[70]

40. JS2 stated that marital rape was not illegal. Service providers, such as the police, were not trained to assist women who reported cases of gender-based violence, and generally discouraged the reporting of such cases. There were insufficient shelters for victims of gender-based violence.[71] JS2 recommended criminalizing marital rape, training police officers and other stakeholders on the handling of reported cases of gender-based violence, building shelters for victims and developing public awareness of the Domestic Violence Act, amongst others.[72]

Children[73]

41. GIEACPC stated that pursuant to the Children's Act 2009, corporal punishment was lawful in the home, in day care facilities and in alternative care settings.[74] Corporal Punishment was also lawful in schools in accordance with the Education Act 1967 and Regulations 1968.[75]

42. GIEACPC stated that corporal punishment was lawful as a disciplinary measure in penal institutions pursuant to the Prisons Act 1980, the Prison Regulations 1965 and the Children's Act 2009. Furthermore, corporal punishment was lawful as a sentence for crimes committed by males, and that a children's court may sentence a child to corporal punishment.[76]

43. GIEACPC recalled that at the 2013 review, the State under review had noted a number of recommendations calling for the prohibition of corporal punishment.[77]

Minorities and indigenous peoples[78]

44. According to CS, there was no explicit recognition of indigenous peoples and minorities in the Constitution or in law.[79] This lack of legal recognition prevented indigenous chiefs from fully participating in decision-making processes affecting them and their people.[80] CS recommended that the State under review recognise indigenous peoples in the Constitution and enact legislation to protect their rights.[81]

45. CS stated that Indigenous Peoples faced food scarcity and hunger, and lacked access to education and clean drinking water. In June 2015, the State under review had been declared "drought-stricken", a status that was exhibited by the privatization of water in the country, which disproportionately affects indigenous peoples.[82]

46. CS stated that the State under review had created the Remote Area Development Programme which benefits people living more than 15 km outside of villages. Those with no water, access to land, or access to other services such as healthcare and education qualify for support within this Programme. Qualifying citizens receive five cattle or fifteen goats, and children are provided with food, toiletries, bedding, and transportation to school. According to CS, there was still room for improvement.[83]

47. CS stated that hunting was forbidden in the game reserves such as the Central Kalahari. The *Basarwa* relied on hunting and gathering yet they were denied special licences to access resources in the reserve in which they once lived. CS stated that as long as use of the resources by the indigenous peoples remained sustainable, their access to the reserves will not be a threat to conservation. There was a "shoot to kill" policy against poachers who were often *Basarwa* trying to provide for their families.[84] CS recommended that the State under review immediately end the "shoot to kill" policy; recognize the authority of the indigenous chiefs and facilitate their participation in policy issues affecting their people; and engage with the indigenous peoples in the development of policies for the sustainable use of resources within the games reserves and federally-protected lands.[85]

48. JS2 recommended that the State under review lift the hunting ban as hunting was important for the livelihood of the Basarwa/San community. It also recommended that the State under review recognise the indigenous knowledge systems of the community which support the sustainable use of the environment, including traditional hunting and gathering practices.[86]

49. CS stated that the State under review did not recognise specific ethnic groups and as a consequence, the education policy served to assimilate into Tswana culture non-Tswana children, including indigenous children. Lessons in schools were taught in English and in Setswana. Also, both of those languages were considered core subjections in the school curriculum, which meant that pupils must pass the examinations in those languages, a status not afforded to any of the other languages spoken in the country. This impeded the ability of children to learn their mother tongue and to keep their cultural heritage alive. It was also disadvantageous to indigenous children as they were forced to receive their education in a language which was not their first.[87] CS stated that many indigenous villages were unable to afford their own schools, resulting in children travelling long distances to attend school.[88] ODVV called on the State under review to recognize all minority languages and provide all primary school children, particularly minority children, with the opportunity to access education in their mother tongue.[89]

Stateless persons[90]

50. JS2 recommended that the State under review sign and ratify the 1961 Convention on the Reduction of Statelessness. It also recommended adopting legislation and regulations to ensure the right of every child to a nationality and that no child was born stateless.[91]

51. JS4 stated that the Botswana Children's Act of 2009 which ensures the domestic application of the Convention on the Rights of the Child provides that every child has a right to a nationality from birth. However, the Botswana Citizenship Act of 1998, which regulates the acquisition of citizenship, did not address the manner in which (otherwise) stateless children may acquire citizenship. Children born in the territory of the State under review to stateless or unknown parents were therefore not guaranteed protection against statelessness. Furthermore, the Act did not specifically stipulate that every child has a right to Botswana nationality, if they would otherwise be stateless.[92] JS4 recommended that the State under review amend the Botswana Citizenship Act of 1998 to ensure every child's right to a nationality and that no child is born stateless in the territory of the State under review.[93]

52. JS4 stated that the State under review did not grant any citizenship rights based on birth on its territory, if neither of the parents are Batswana. Citizenship rights were also not conferred in cases of foundlings or children of unknown parents.[54] Furthermore, while birth registration was readily available to those children born in hospitals it was not the case for children born at home or children who lived in rural areas.[55] JS4 recommended that the State under review take all necessary steps to ensure immediate and universal birth registration of children born on its territory, particularly foundlings, those born to migrants and undocumented persons and those born outside of hospitals. It also recommended that the State under review ensure that all children found within its territory be considered to have been born on its territory to Batswana parents, in the absence of proof to the contrary.[56]

53. JS4 stated that the three-year time-limit (which commences at birth) for acquisition of citizenship through adoption may create statelessness among children who were adopted after their third birthday, particularly if they did not have a previous citizenship or were liable to losing their previous citizenship upon adoption.[57] It recommended that the State under review amend the relevant law restricting acquisition of nationality through adoption to children below three years of age to ensure that all children (under 18 years of age) adopted by citizens of the State under review, acquire Botswanan nationality.[58]

Notes

The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org

Civil society

Individual submissions

ADF International	Alliance Defending Freedom International, Geneva, Switzerland.
COMET	Community Media Foundation, Gaborone, Botswana.
CS	Cultural Survival, Cambridge, United States of America.
HRW	Human Rights Watch, Geneva, Switzerland.
ODVV	Organisation for Defending Victims of Violence, Tehran, Iran.

Joint submissions

JS1	Centre for Global Non Killing and Conscience and Peace Tax International (Joint Submission 1).
JS2	Bible Society Botswana, Botswana Community Based Organization Network, Botswana Federation of the Disabled, Bokamoso Conservation Trust, Botswana Labour Migrants Association, Botswana Network on Ethics, Law and HIV/AIDS, Botswana Network of People Living with Aids, BOSASNET, Botswana Tourism Organisation, DITSHWANELO – The Botswana Centre for Human Rights, Environmental Conservation Trust, Environmental Horizon, Green Fingers Association, Kagisano Women's Shelter, Kwedom Council, Lesbians, Gays and Bisexuals of Botswana, Light and Courage Centre, Mazibukufa Orphans and Vulnerable Children, Men and Boys for Gender Justice, Methodist Church, MISA Botswana, Mmegi (Media), Ngamiland Council of Non-Governmental Organisations, Rainbow Identity Association, RETENG, Stepping Stones International, Thapong Artists, Ultimate Youth, Women Against Rape and Young Love, Gaborone, Botswana (Joint Submission 2).
JS3	ECAPT International, Bangkok, Thailand and Stepping Stones

JS4	International, Gaborone, Botswana (Joint Submission 3); SADC CRAI Network on Statelessness, Citizenship Rights in Africa Initiative, DITSHWANELO, Lawyers for Human Rights and, The Institute on Statelessness and Inclusion (Joint Submission 4).

[1] For relevant recommendations see A/HRC/23/7, 22 March 2013, paras. 115.44, 115.45, 115.88, 116.1-116.12, 116.14-116.24, 116.31-116.34 and 117.1.
[2] See A/HRC/23/7, 22 March 2013.
[3] JS1, p. 4, referring to A/HRC/23/7, para. 116.12 (Armenia); and see A/HRC/23/7/Add.1, para. 12 in relation to the position taken by Botswana on this recommendation.
[4] JS1, p. 5.
[5] JS1, p. 4.
[6] JS4, paras. 12 and 25.
[7] ODVV, paras. 15-17.
[8] JS2, para. 3.
[9] JS3, para. 2.
[10] HRW, p. 1.
[11] For relevant recommendations see A/HRC/23/7, 22 March 2013, paras. 115.1-115.22, 115.38, 115.40, 115.42, 115.43, 115.52, 115.54, 115.92, 116.13 and 117.27.
[12] JS3, para. 36.
[13] HRW, p. 1.
[14] JS2, paras. 3 and 4. JS2 made recommendations (para. 5).
[15] JS2, para. 16.
[16] JS2, para. 18. For other recommendations see para. 18, and see also JS3, para. 36.
[17] HRW, p. 1.
[18] Adopted by General Assembly resolution 48/134 of 20 December 1993.
[19] HRW, p. 1.
[20] JS2, para. 25.
[21] JS2, para. 26.
[22] JS2, para. 30.
[23] JS2, para. 31.
[24] JS2, para. 33.
[25] For relevant recommendations see A/HRC/23/7, 22 March 2013, paras. 115.41, 116.35, 117.2 and 117.3.
[26] JS2, para. 39.
[27] JS2, paras. 38 and 39.
[28] JS2, para. 38.
[29] JS2, para. 7. JS2 also made other recommendations (para. 7).
[30] For relevant recommendations see A/HRC/23/7, 22 March 2013, paras. 115.59, 115.60, 115.74, 116.36, 116.37 and 117.4-117.21.
[31] JS2, para. 40, and see also HRW, p. 1.
[32] JS2, para. 41, and see also HRW, p. 1.
[33] JS1, p. 4.
[34] JS1, p. 4.
[35] For relevant recommendations see A/HRC/23/7, 22 March 2013, paras. 115.75, 115.76, 115.93, 116.25-116.29 and 117.39.
[36] JS2, para. 34.
[37] JS2, para. 35.
[38] HRW, p. 1.
[39] For relevant recommendations see A/HRC/23/7, 22 March 2013, para. 115.78.
[40] COHRE, p. 1.
[41] JS2, para. 36.
[42] JS2, para. 37.
[43] JS1, p. 6.
[44] JS2, para. 32. JS2 made recommendations (para. 33).
[45] JS1, para. 22.

[47] JS3, p. 6.
[48] JS3, para. 9.
[49] JS3, p. 5.
[50] JS3, p. 5.
[51] JS2, para. 17.
[52] For relevant recommendations see A/HRC/23/7, 22 March 2013, para. 116.38, 117.28-117.32.
[53] JS2, paras. 38.
[54] HRW, p. 1.
[55] JS2, para. 39, and see also HRW, p. 1.
[56] For relevant recommendations see A/HRC/23/7, 22 March 2013, para. 115.83.
[57] JS2, para. 37.
[58] For the relevant recommendation from the 2013 review see A/HRC/23/7, para. 115.23, 115.29-115.32.
[59] JS2, para. 23.
[60] JS2, para. 24. For other recommendations see para. 24.
[61] For relevant recommendations see A/HRC/23/7, 22 March 2013, paras. 115.24, 115.33, 115.39, 115.80-115.82 and 116.39.
[62] ADF, paras. 15 and 16.
[63] ADF, paras. 17 and 18.
[64] ADF, para. 23(c).
[65] JS2, para. 19. JS2 made recommendations (para. 20).
[66] For relevant recommendations see A/HRC/23/7, 22 March 2013, paras. 115.36, 115.37, 115.84-115.87.
[67] HRW, p. 1.
[68] JS2, paras. 8-10.
[69] JS2, para. 11. JS2 made recommendations (para. 12).
[70] For relevant recommendations see A/HRC/23/7, 22 March 2013, paras. 115.40-115.91, 115.93, 115.95-115.98, 115.61-115.73 and 117.26.
[71] JS2, para. 21. JS2 made recommendations (para. 22).
[72] JS2, para. 22.
[73] For relevant recommendations see A/HRC/23/7, 22 March 2013, paras. 115.34, 115.39, 115.79, 116.30 and 117.22-117.25.
[74] GIEACPC, paras. 2.1-2.3.
[75] GIEACPC, para. 2.4.
[76] GIEACPC, paras. 2.5-2.7.
[77] GIEACPC, paras. 1.1-1.3. For recommendations see A/HRC/23/7, para. 116.30-0 architecture) together with A/HRC/23/7/Add.1, para. 31, and see also A/HRC/23/7, paras. 117.22-29 (Timor-Leste, Costa Rica, Djibouti and Mongolia).
[78] For relevant recommendations see A/HRC/23/7, 22 March 2013, paras. 115.89, 115.90, 116.40, 117.33-117.36.
[79] CS, p. 2, and see also CODAV, para. 8.
[80] CS, p. 3.
[81] CS, p. 6.
[82] CS, p. 3.
[83] CS, p. 3.
[84] CS, p. 4.
[85] CS, pp. 6-7.
[86] JS2, para. 29. JS2 made other recommendations (para. 29).
[87] CS, pp. 5-6.
[88] CS, p. 6.
[89] IADVV, para. 19.
[90] For relevant recommendations see A/HRC/23/7, 22 March 2013, para. 115.77.
[91] JS2, para. 35. For other recommendations see para. 35.
[92] JS4, paras. 15-16.
[93] JS4, para. 27.
[94] JS4, para. 21.

[17] *Ibid.* para. 22.
[18] *Ibid.* para. 25.
[19] *Ibid.* para. 17.
[20] *Ibid.* para. 29.